REMARKS

Claims 19-33 have been cancelled. Accordingly, Claims 1-18 are pending.

Objections to the Specification

The Examiner states that "[t]he disclosure is objected to because...it lacks sections headings such as 'Detailed Description.'" (Office Action page 2, paragraph 3.)

The Applicants respectfully point out that in the Preliminary Amendment, filed on December 7, 2001, sections headings were inserted into the specification. Accordingly, Applicants request withdrawal of this objection.

First Rejection under 35 U.S.C. §112 (second paragraph)

The Examiner has rejected all the claims under 35 U.S.C. § 112 (second paragraph) as being indefinite. In particular, the Examiner objects to the phrases "high amylopectin" and "normal amylopectin," stating that "[i]t is not clear what level of amylopectin would be considered 'high' or 'normal.'" (Office Action page 2, paragraph 6.)

The phrases "high amylopectin" and "normal amylopectin" are clearly defined in the specification. On page 3, lines 12-14, a normal amylopectin content is stated as containing about 80% ± 3% of amylopectin on a dry weight basis. On page 4, lines 12-17, and on page 10, lines 9-14, a high amylopectin content is stated as containing 85% or more amylopectin on a dry weight basis. In order to expedite prosecution, Claims 1 and 3 have been amended to recite the percentages of amylopectin. Accordingly, Applicants request that this indefiniteness rejection be withdrawn.

Second Rejection under 35 U.S.C. §112 (second paragraph)

The Examiner has rejected Claims 11-14 under 35 U.S.C. § 112 (second paragraph) as being indefinite. In particular, the Examiner states that "[i]t is not clear whether ['waxy starch'] is the same component as the 'high amylopectin starch' since the term 'waxy' was commonly understood to mean 'high amylopectin content.'" (Office Action page 3, paragraph 7.)

The starch recited in Claims 10-14 is "**isolated** starch." In contrast, the "high amylopectin starch" recited in Claim 1 is in the form of a flake and/or granule. See the paragraph bridging pages 4 and 5 of the specification for a discussion of the differences between isolated starch and starch in the form of a flake and/or granule. Also, as stated by the Examiner, the phrase "waxy starch" is well known in the art. Accordingly, Applicants request that this indefiniteness rejection be withdrawn.

Rejection under 35 U.S.C. §103(a)

The Examiner has rejected all of the claims, under 35 U.S.C. § 103(a), as being obvious over Martines-Serna Villagran et al. (U.S. Patent No. 6,544,580, hereinafter "the '580 patent") in view of the de Vries article (hereinafter "de Vries"). (Office Action pages 3-4, paragraphs 8-9.)

In particular, the Examiner states that the '580 patent teaches a snack product comprising potato flakes. The Examiner concedes that the '580 patent does not disclose high amylopectin potato starch. In an attempt to remedy this deficiency, the Examiner cites de Vries. The Examiner states that "de Vries teaches a snack product comprising high amylopectin potato starch... It would have been obvious to...incorporate the high

amylopectin potato starch of de Vries into the invention of [the '580 patent] since both are directed to snack products...and since the high amylopectin potato starch ...provided better control of expansion after frying and provided better results than normal potato starch." (See Office Action paragraph bridging pages 3 and 4.)

The snack products according to the present invention comprise flakes and/or granules which are prepared from high amylopectin potatoes. Such potatoes comprise starch that has an amylopectin content of at least 85% on a dry weight basis. The examples of the present application clearly demonstrate that the use of flakes and/or granules of potatoes with a high amylopectin content leads to an increased expansion in snack foods. In particular, see the tables on pages 16 and 19. These tables show that replacing potato flakes/granules of normal amylopectin content with potato flakes/granules of high amylopectin content leads to an unexpected increase in expansion. See page 5, lines 4-9, of the instant specification. The '580 patent does not mention potato flakes/granules of high amylopectin content, and thus cannot suggest, let alone teach, the present invention.

De Vries is a general overview of potential applications of starch isolated from high amylopectin potatoes. Unlike the present claims, de Vries does **not** mention or suggest the use of flakes and/or granules of high amylopectin potatoes in the food industry. "Isolated starch" is different from starch in the form of a flake and/or granule. (See the paragraph bridging pages 4 and 5 of the specification for a discussion of one of the differences between isolated starch, and starch in the form of a flake and/or granule.) Thus, the combination of the '580 patent and de Vries does not teach the invention. At most, de Vries would have taught a skilled artisan to add isolated amylopectin potato starch to normal potato mash or potato snacks. (See first full paragraph on page 9 of de Vries.)

Even if a *prima facia* case of obviousness would have been presented (and the Applicants in no way believe that such a case has been presented), it could be overcome by the fact that de Vries **teaches away** from the present invention. Specifically, de Vries states "the use of amylopectine potato starch leads to **less expansion** after frying." (See first full paragraph on page 9 of de Vries. Emphasis added.) Thus, if a skilled artisan would have wanted to produce a potato snack with greater expansion, de Vries would have led him away from using high amylopectin potato starch.

Accordingly, Applicants request withdrawal of this obviousness rejection.

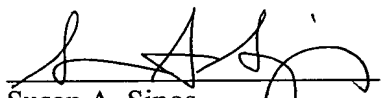
Rejections under 35 U.S.C. §103(a)

The Examiner has also rejected Claims 10-14, under 35 U.S.C. § 103(a), as being obvious over the '580 patent in view of de Vries and further in view of Jeffcoat et al. (U.S. Patent No. 6,541,060, hereinafter "the '060 patent"). The Examiner cites the '060 patent as teaching "a food product comprising less than 10% pregelatinized waxy potato starch." (Office Action page 4, paragraph 10.)

Since the claims upon which Claims 10-14 depend are not obvious over the '580 patent in view of de Vries, the further disclosure by the '060 patent does not render Claims 10-14 obvious. Accordingly, Applicants request withdrawal of this obviousness rejection.

Applicants respectfully submit that the application is now in condition for allowance, which action is earnestly solicited. If resolution of any remaining issue is required prior to allowance of this application, it is respectfully requested that the Examiner contact Applicants' undersigned attorney at the telephone number provided below.

Respectively submitted,



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